

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI**

**v.  
ROBERT A. MOLSBEE**

**RESPONDENT,**

**APPELLANT.**

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DOCKET NUMBER WD70399  
DATE: August 10, 2010

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Appeal From:

Buchanan County Circuit Court  
The Honorable Daniel Fred Kellogg, Judge

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Appellate Judges:

Division One: Lisa White Hardwick, Presiding Judge, James M. Smart, Jr., and Alok Ahuja,  
Judges

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Attorneys:

Shaun J. Mackelprang and James B. Farnsworth, Jefferson City, MO for respondent.

Susan L. Hogan, Kansas City, MO, for appellant.

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**MISSOURI APPELLATE COURT OPINION SUMMARY**

**MISSOURI COURT OF APPEALS  
WESTERN DISTRICT**

**STATE OF MISSOURI,**

**RESPONDENT,**

**v.**

**ROBERT A. MOLSBEE,**

**APPELLANT.**

No. WD70399

Buchanan County

Before Division One Judges: Lisa White Hardwick, Presiding Judge, James M. Smart, Jr., and Alok Ahuja, Judges

Robert Molsbee appeals his conviction after a guilty plea for violating section 566.147 RSMo cum. supp. 2006, forbidding residency of certain offenders within one thousand feet of a school or day care. He contends on appeal that his conviction should be vacated because the statute under which he was convicted is unconstitutional as applied to him. He points out that in *F.R. v. St. Charles City Sheriff's Department*, 301 S.W.3d 56 (Mo. banc 2010), the Court held that the retrospective application of the statute to offenders convicted before the effective date of the statute violated the Missouri constitutional provision against retrospective laws.

**VACATED.**

**Division One holds:**

Molsbee's plea of guilt may be vacated under the principle of law whereby the appellant is entitled to the benefit of any change in the law that occurs during the time his case is on appeal. The decision in *F.R.* is exactly on point with Molsbee's prosecution.

The court vacates the judgment of conviction after guilty plea and directs that Molsbee discharged from remaining sentence as to his conviction of violating 566.147.

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